National Energy Board | Office national de l'énergie

# Reasons for Decision

## Trans-Northern Pipelines Inc.

## OH-1-2003

July 2003

**Facilities**

National Energy Board

# Reasons for Decision

In the Matter of

**Trans-Northern Pipelines Inc.**

Application dated 24 October 2002 for
Capacity Expansion and Line Reversal
Facilities

**OH-1-2003**

**July 2003**

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103-06416/

## Abbreviations

| | |
|---|---|
| Act or NEB Act | *National Energy Board Act* |
| Applicant | Trans-Northern Pipelines Inc. |
| AFUDC | Allowance for Funds Used During Construction |
| Board | National Energy Board |
| CEA Act | *Canadian Environmental Assessment Act* |
| certificate | certificate of public convenience and necessity, pursuant to section 52 of the NEB Act |
| CSA | Canadian Standards Association |
| EPN | Early Public Notification |
| EPNCP | Early Public Notification and Consultation Program |
| Express | Express Pipeline Ltd. |
| FSA | Facilities Support Agreement |
| GHW-5-90 and RH-3-90 or IPL NGL Facilities Decision | Interprovincial Pipe Line Company, a division of Interhome Energy Inc., Facilities and Tolls, Reasons for Decision dated February 1991 |
| Hz | hertz |
| ILI | in-line inspection |
| Imperial | Imperial Oil Limited |
| intervenors | parties to the OH-1-2003 proceeding that are not the Applicant, but does not include Responsible Authorities |
| IPL | Interprovincial Pipe Line Company or Interprovincial Pipe Line Inc. |
| km | kilometre(s) |
| KP | kilometre post |
| m | metre(s) |
| $m^3/d$ | cubic metres per day |
| MH-4-96 | PanCanadian Petroleum Limited, Request for Service, Reasons for Decision dated February 1997 |

| | |
|---|---|
| mm | millimetre |
| MRC | Municipalité Régionale de Comté de Deux-Montagnes |
| NGL | natural gas liquids |
| OH-1-95 or Express Decision | Express Pipeline Ltd., Facilities and Toll Methodology, Reasons for Decision dated June 1996 |
| OH-2-97 or Line 9 Decision | Interprovincial Pipe Line Inc., Facilities and Toll Methodology, Reasons for Decision dated December 1997 |
| OPR-99 | *Onshore Pipeline Regulations, 1999* |
| PAA | Priority Access Agreement |
| Parties | Applicant, intervenors and all Responsible Authorities |
| Project | Capacity Expansion and Line Reversal Application |
| Purvin & Gertz | Purvin & Gertz Inc. |
| RHW-3-96 | Trans-Northern Pipelines Inc., Toll Settlement, Reasons for Decision dated June 1996 |
| ROW | right of way |
| SCADA | supervisory control and data acquisition |
| Shell | Shell Canada Products |
| Suncor | Suncor Inc. |
| TNPI, Trans-Northern | Trans-Northern Pipelines Inc. |
| Ultramar | Ultramar Ltd. |

## Definitions

| | |
|---|---|
| Common Carrier Pipeline | Pursuant to subsection 71(1) of the NEB Act, a company operating a pipeline under the Board's jurisdiction for the transmission of oil which "... shall, according to its powers, without delay and with due care and diligence, receive, transport and deliver all oil offered for transmission by means of its pipeline." |
| Conditions of Transportation | Specific terms and conditions under which volumes are shipped on the Trans-Northern pipeline. |
| Contract Carrier | A pipeline, usually transporting gas, that provides its services to others on a contractual basis. |
| Crude Oil and Equivalent | A collective term used to refer to all grades of crude oil including light and heavy conventional crude oils, synthetic crude oil, pentanes and heavier hydrocarbons and bitumen. |
| FSA | Facilities Support Agreement – a contract that sets out the terms and conditions, upon which Trans-Northern and Petro-Canada are prepared to reverse the direction of flow on the Montréal-Oakville portion of the pipeline. The agreement includes provision for Petro-Canada to backstop the costs of the application and contract for capacity and receive priority access on the reversed line. |
| Full Encirclement Sleeves | A pipeline repair method to deal with corrosion defects and minor damage. |
| Mid-line Terminals | Those terminals connected to the Trans-Northern pipeline located in or near Belleville, Kingston and Maitland, Ontario. |
| Open Season | The process used to offer to potential shippers the opportunity to contract for long-term transportation service on the reversed Montréal-Toronto section according to specific terms and conditions. |
| PAA | Priority Access Agreement – a contract between Trans-Northern and Ultramar for the transportation of refined products, on a ship-or-pay priority access basis on the reversed Montréal-Oakville section. |
| Primary Term | Years one through ten after reversal. |
| Refined Products | The products produced at a refinery from crude oil such as motor gasoline, aviation fuels, kerosene, diesel fuel, heating oil and heavy fuel oil. |

| | |
|---|---|
| Secondary Term | Years 11 through 20 following reversal. |
| Ship-or-pay | An agreement whereby a shipper commits to ship a certain volume on a pipeline and is responsible to pay the cost incurred if the volume is not shipped. |
| Spot Shipments | Shipments made without long-term contracts. Spot shipments on TNPI are nominated monthly. |
| Unit Train | A dedicated train that moves products from source to destination. |

## Recital and Appearances

**IN THE MATTER OF** the *National Energy Board Act* and the regulations made thereunder; and

**IN THE MATTER OF** an application dated 24 October 2002, by Trans-Northern Pipelines Inc. for a certificate of public convenience and necessity to increase the capacity on its petroleum products pipeline system from Montréal, Quebec to Farran's Point near Ingleside, Ontario and to reverse the direction of flow of the pipeline between Farran's Point and Clarkson Junction in Mississauga, Ontario and for various other related orders; and

**IN THE MATTER OF** Hearing Order OH-1-2003 dated 14 March 2003;

HEARD in Ottawa, Ontario on 9, 10, 11 and 13 June 2003;

BEFORE:

| | |
|---|---|
| J.-P. Théorêt | Presiding Member |
| J.S. Bulger | Member |
| G. Caron | Member |

APPEARANCES:

| | |
|---|---|
| J.A. Campion<br>A.N. D'Oyley | Trans-Northern Pipelines Inc. |
| B.R. Clark | Imperial Oil Limited |
| R.A. Neufeld<br>G. Moores | Petro-Canada |
| J.H. Smellie | Shell Canada Products |
| L.G. Keough<br>L.C. Bell | Suncor Inc. |
| A.S. Hollingworth, Q.C. | Ultramar Ltd. |
| J. Brisson<br>R. Richard | Procureur général du Québec |
| Y. Patry<br>N. Loiselle<br>Y. Bélair | Municipalité Régionale de Comté de Deux-Montagnes |
| M.A. Fowke<br>J.D. Saumure | Board Counsel |

## Chapter 1

# Introduction

### 1.1 Application

On 24 October 2002, Trans-Northern Pipelines Inc. (TNPI, Trans-Northern or the Applicant) applied to the National Energy Board to increase the capacity on its petroleum products pipeline system from Montréal, Quebec to Farran's Point near Ingleside, Ontario and to reverse the direction of flow between Farran's Point and the Clarkson Junction in Mississauga, Ontario (the Project). (See Figure 1-1.) Specifically, TNPI applied for:

- an order pursuant to section 52 of Part III of the *National Energy Board Act* (Act or NEB Act) for a certificate of public convenience and necessity in respect of the applied-for facilities;
- an order for capacity access to certain shippers pursuant to subsection 71(1) of Part IV of the Act falling within the exemptions that the Board may prescribe;
- an order pursuant to section 74 of Part V of the Act for the retirement of certain equipment and the retirement or abandonment of replaced line sections;
- an order pursuant to Part IV of the Act approving the tolling methodology set forth in the application; and
- related orders.

The proposed Project would include the replacement of four line segments totalling approximately 72.5 kilometres (45 miles) of 273.1 millimetre (10 inch) pipe with 406.4 mm (16 inch) pipe between Montréal and Farran's Point. TNPI is also proposing to upgrade four of its existing pump stations located at Montréal and Como, Quebec and Lancaster and Ingleside, Ontario and to construct four storage tanks at the Farran's Point pump station.

With respect to the reversal of the pipeline between Farran's Point and Toronto to an east-to-west direction, TNPI proposes to construct three pump stations along the 273.1 mm (10 inch) pipeline near Iroquois, Mallorytown and Kingston, Ontario.

Following completion of the Project, capacity from Montréal to Farran's Point would increase from 10 500 $m^3$/d to 21 000 $m^3$/d. After reversal, capacity from Farran's Point to Belleville would increase from 10 000 $m^3$/d to 11 500 $m^3$/d. The capacity from Belleville to Toronto would remain at 10 000 $m^3$/d. The capacity from Farran's Point to Ottawa would increase by 3 000 $m^3$/d to 16 000 $m^3$/d.

Trans-Northern applied to have priority destination designations awarded to Ottawa for 9 500 $m^3$/d and to Belleville, Kingston and Maitland for 2 400 $m^3$/d. It also applied for priority access for volumes shipped by Petro-Canada and Ultramar who had signed ship-or-pay agreements, for a total of 9 100 $m^3$/d between Montréal and Oakville.

The cost of the Project as described above is estimated to be $85,580,000 in 2004 dollars and is proposed to be in service by the end of 2004.

On 12 December 2002 and 4 March 2003 the Board issued deficiency letters requesting further particulars regarding the application. The required information was filed on 14 February and 7 March 2003. The Board established a process to consider Trans-Northern's application and issued Hearing Order OH-1-2003 on 14 March 2003. The Board held an oral public hearing to consider the application on 9, 10, 11 and 13 June 2003 in Ottawa, Ontario.

## 1.2 Background

Trans-Northern, a refined petroleum products pipeline extending over 800 km, was established in 1949 under a Special Act of Parliament. The portion of the TNPI system that would be affected by the capacity expansion and line reversal Project was constructed in 1952. Product deliveries began in November of that year in an east-to-west direction from Montréal to Nanticoke, Ontario with several delivery terminals being served along the way. Following implementation of the National Oil Policy, the TNPI system from Maitland to Kingston was closed in 1963 as imported oil could not be used west of the Ottawa Valley. The line from Toronto to Kingston was reversed to a west-to-east direction and terminals along that section were served from Ontario sources of supply. In 1973 the line between Kingston and Maitland was re-opened and product flowed from Toronto to Farran's Point and Ottawa. Ottawa could thus be supplied from both Quebec and Ontario. In 1982 the line from Farran's Point to Montréal was re-configured to permit a bi-directional flow thus allowing Ontario sourced petroleum products to be delivered to Montréal.

TNPI is owned in equal parts by Petro-Canada, Shell Canada Products (Shell) and Imperial Oil Limited (Imperial).

**Figure 1-1**
**TNPI Current System and Proposed Changes**

**Montréal to Farran's Point**
- Current capacity 10 500 $m^3/d$
- Proposed capacity 21 000 $m^3/d$

**North Toronto to Farran's Point**
- Current capacity 10 000 $m^3/d$ (West to East)
- Proposed capacity (East to West)
  - Farran's Point to Belleville 11 500 $m^3/d$
  - Belleville to Toronto 10 000 $m^3/d$

**Farran's Point to Ottawa**
- Current capacity 13 000 $m^3/d$
- Proposed capacity 16 000 $m^3/d$

**Nanticoke to North Toronto**
- Current capacity 10 000 $m^3/d$
- Proposed capacity 10 000 $m^3/d$

**Legend**
- Increases in pumping capacity at Montréal, Como, Lancaster and Farran's Point
- ⟵ Proposed flow, Farran's Point to Clarkson
- ⟵ Current Flow
- New Pump Stations at Iroquois, Mallorytown and Kingston
- ▬ Sections for Capacity Expansion
- • Existing Pump Station
- ■ Existing Meter Station
- ⊡ Existing Pump and Meter Station

## Chapter 2

# Priority Access and Economic Feasibility

## 2.1 Need for Reversal

In its application, TNPI indicated that in the last seven years petroleum product deliveries from the Toronto area to eastern Ontario terminals have diminished dramatically and that the Toronto to Farran's Point portion of the pipeline is now operating at approximately 20 percent of its rated capacity. The stated reason for the decline in use is that the preferred source of product supply to eastern Ontario terminals has shifted from Ontario to Quebec. Trans-Northern submitted that the Project would provide the opportunity to better meet customer needs and make more effective use of existing pipeline facilities (See Figures 2-1 and 2-2 for schematics of TNPI's current and post-reversal configurations.)

In the Applicant's view, the need for reversal was demonstrated by the fact that two shippers, Petro-Canada and Ultramar Ltd. (Ultramar), were prepared to financially backstop the Project by means of long-term ship-or-pay commitments from Montréal to Toronto. According to TNPI, these commitments indicate that the shippers have adequate supply of refined products at Montréal and established markets in Ontario which would ensure that the pipeline capacity would be utilized.

Trans-Northern further stated that full utilization of the pipeline following reversal would provide an average of 13.5 percent reduction in tolls to shippers thus contributing to lower industry distribution costs.

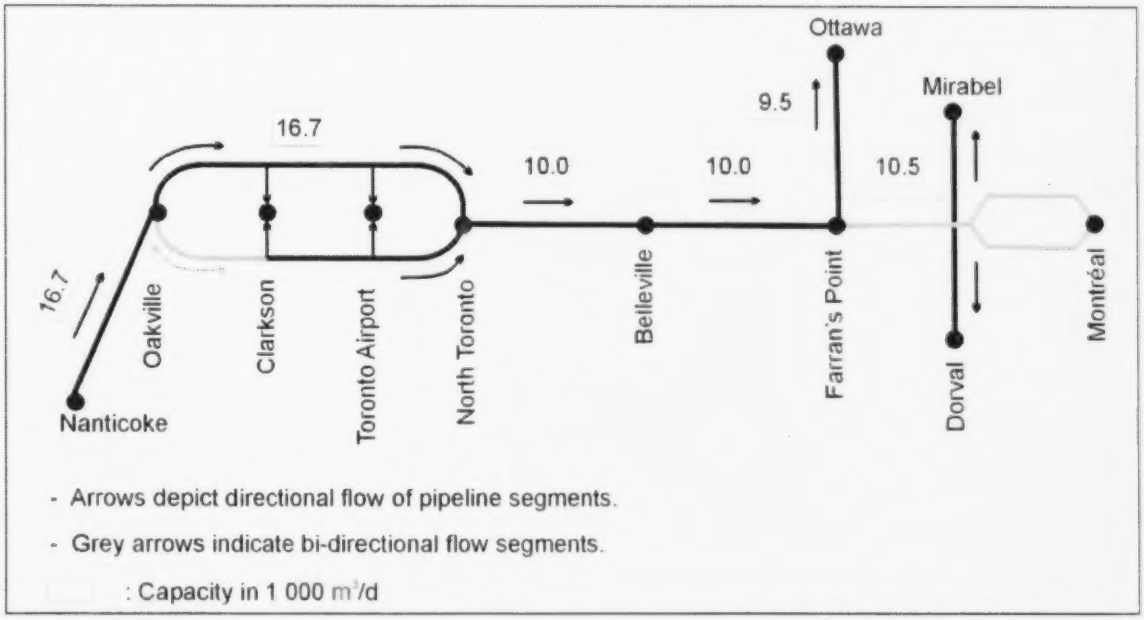
As noted in the Purvin & Gertz report[1] filed as part of Petro-Canada's evidence, refiners across North America have, for many years, been under intense pressure to become more efficient while at the same time have faced substantial increases in expenditures to meet new and emerging environmental regulations[2]. Petro-Canada concluded that the cost to retrofit its Oakville refinery to meet gasoline and distillate sulphur regulations is very significant with prospects of additional large expenditures to meet future regulations. Therefore, Petro-Canada is examining other methods of sourcing refined products to supply its markets in Ontario. Petro-Canada indicated that it has de-bottlenecked its Montréal refinery and is planning additional capacity expansion so as to achieve increased economies of scale while meeting legislative requirements for low sulphur fuels. It stated that if it closes the Oakville refinery it will need long-term, secure access to pipeline capacity.

---

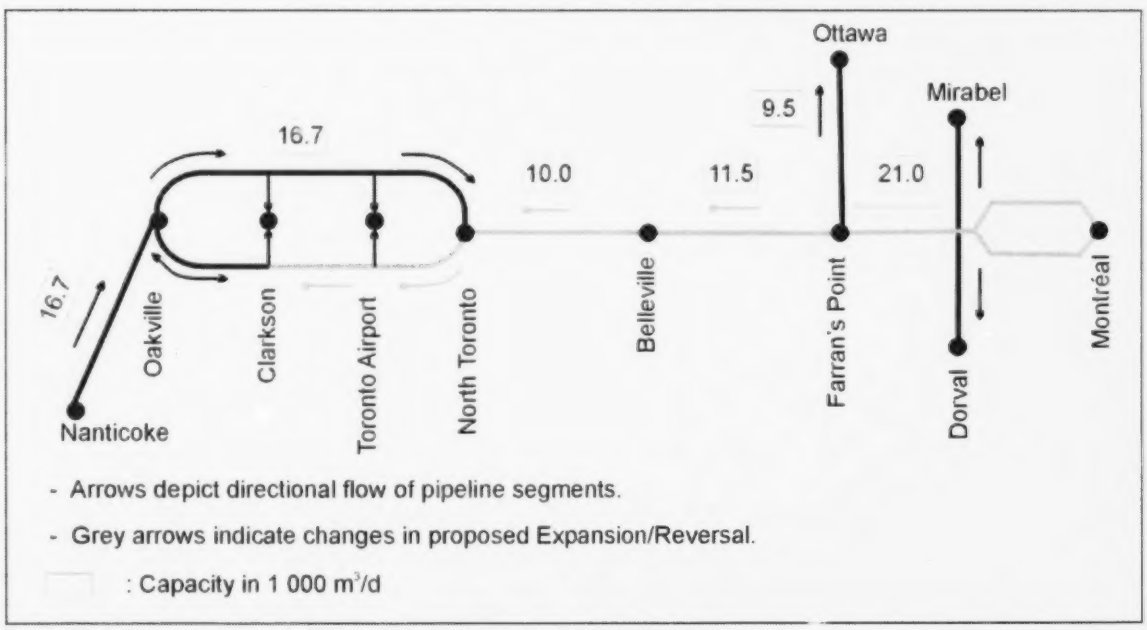
1 Purvin & Gertz Inc., *Review of Ontario Refined Products Market Environment Regarding Proposed Changes to Trans-Northern Pipelines Inc. System*, 8 May 2003.

2 Canadian gasoline sulphur content must not exceed 30 parts per million (ppm) by January 1, 2005. In addition, sulphur in diesel fuel used in on-road vehicles must be reduced to a maximum of 15 ppm by mid-2006.

## Figure 2-1
## TNPI Current Flow Schematic




## Figure 2-2
## TNPI Expansion and Reversal Flow Schematic




Reproduced with permission from Purvin & Gertz Inc., *Review of Ontario Refined Products Market Environment Regarding Proposed Changes to Trans-Northern Pipeline Inc. System*, 8 May 2003, page II-4.

Ultramar recently announced plans to increase capacity at its Saint-Romuald refinery near Québec City to 35 771 $m^3$/d by 1 January 2005. An increase in gasoline yields from the refinery expansion, coupled with a rise in refinery output, would result in an expansion of its operations in Ontario. Ultramar emphasized that the Project would allow shipments on the relatively inactive stretch from Farran's Point to Toronto to increase over ten-fold.

Petro-Canada's evidence suggested that there are three broad directions that refiners are taking or considering:

- closing refineries and exiting the business;
- consolidating operations to capture some efficiencies; or
- vertically integrating with crude oil producers.

Petro-Canada, in evaluating its eastern Canadian refining and supply operations, has been studying the second option. By consolidating its eastern Canadian operations at the Montréal refinery and associated infrastructure, making the environmental investments at one refinery only and using a reversed TNPI line to serve Ontario markets, Petro-Canada would be following an industry trend to gain efficiencies.

Shell and Suncor Inc. (Suncor) supported the need for the reversal. The Procureur général du Québec, citing new market realities, also supported the Project, as did Imperial and the Canadian Independent Petroleum Marketers Association in letters to the Board.

**Transportation Alternatives**

In Trans-Northern's assessment, the reversed pipeline would not be the sole determinant of the source of supply to the markets it serves. It submitted that the refined products pipeline business is subject to more competition and is thus more fluid and dynamic than crude oil or natural gas pipelines. Marketers of refined products have truck, rail and marine transportation options available to them.

In the Applicant's view, the proposed design ensures sufficient capacity to allow the Ottawa, Kingston, Belleville and Maitland markets to be served by the pipeline with Montréal sourced product. These markets currently receive a portion of their supply from Montréal either directly through TNPI (Ottawa), by a combination of pipeline and truck (Kingston and Maitland) or directly by rail (Maitland). In the case of the Belleville market area, Toronto sourced product is currently supplied by TNPI and by truck.

Ultramar stated that it has an arrangement in place to ship most of its Maitland requirements by unit train over the next few years and anticipates that these shipments will increase. However, it agreed that TNPI would be a supply option if it experiences supply disruptions with the unit train.

Suncor disputed the arguments regarding non-pipe competition, suggesting that the alternatives for transportation are distinctly second best.

***Views of the Board***

The portion of the Trans-Northern pipeline from Toronto to Farran's Point is currently underutilized; this situation is expected to continue. There was consensus among the parties that the reversal would increase utilization of the pipeline and benefit all shippers. In the Board's view the current utilization rate of the pipeline, impending regulations concerning sulphur reduction in gasoline and diesel, the evidence regarding the closure of Petro-Canada's Oakville refinery and the expansion of the Ultramar refinery in Saint-Romuald demonstrate the need for the Project.

The Board finds that although there are alternatives, the pipeline provides a safe and reliable means of transportation, and to many market participants may be the preferred means of moving petroleum products.

The Board is of the view that the record of these proceedings clearly establishes the need for the proposed facilities. The Board notes that this view is supported by a broad cross-section of intervenors and opposed by none.

## 2.2 Open Season

TNPI conducted an open season to seek expressions of interest from shippers and interested persons with respect to the available capacity from Montréal to Toronto. In a letter dated 17 June 2002, Trans-Northern solicited expressions of interest from potential shippers who wanted to participate in the Project by entering into a firm long-term (minimum 10 years) ship-or-pay commitment for use of all or part of the available capacity on a priority access basis. In addition, notices were placed in regional and national newspapers.

As a result of the open season solicitation, responses were received from: Petro-Canada, Ultramar, Imperial, Sunoco Inc.[3], NYONT, J.V. Investment Advisors, and Olco Petroleum Inc. Further steps in the process resulted in requests from Petro-Canada and Ultramar to secure priority access from Montréal to Toronto.

On 23 October 2002, Petro-Canada and TNPI signed a Facilities Support Agreement (FSA) incorporating a firm ship-or-pay commitment of 8 000 $m^3$/d from Montréal to Oakville, for a primary term (years one through ten) and 1 590 $m^3$/d for a secondary term (years 11 through 20). For both terms Petro-Canada would have unapportioned priority access for 8 000 $m^3$/d. In addition to its ship-or-pay commitments, Petro-Canada undertook to guarantee the project development costs regardless of whether or not the Project receives Board approval.

Ultramar expressed an interest in obtaining capacity on a long-term basis as well as shipping an additional 1 500 $m^3$/d on a short-term or spot basis from Montréal to Toronto. On 14 April 2003, Ultramar signed a Priority Access Agreement (PAA) with Trans-Northern for unapportioned priority access from Montréal to Oakville for 2 000 $m^3$/d for 20 years. The PAA provides for a

[3] Sunoco Inc. and Suncor Inc. are affiliated companies.

firm ship-or-pay commitment of 2 000 $m^3/d$ for the primary term and 400 $m^3/d$ for the secondary term. TNPI stated that it was not prepared to increase capacity for spot shipments. Ultramar proceeded to sign the PAA without provision for spot capacity.

Petro-Canada expressed the view that TNPI undertook a fair, open and transparent open season process. Ultramar also submitted that the open season was timely, well publicized and provided full particulars of the proposed Project.

Shell stated that the minimum ten-year term was narrow in focus and that it excluded those potential shippers whose business needs did not meet the transportation arrangements specified by TNPI.

In Suncor's view, the open season process was designed to meet Petro-Canada's needs and timing although it also happened to meet Ultramar's requirements given its Saint-Romuald refinery expansion plans and desire to expand into the Ontario market. In addition, Suncor felt that the open season process was conducted over a fairly short time frame in which to make a significant decision. Notwithstanding these concerns, Suncor stated that it did not object to the open season process and was not seeking any action by the Board.

***Views of the Board***

The Board notes that Trans-Northern published its notice of the open season in regional and national newspapers and attempted to contact any potential shipper who might be interested in the reversal. It provided terms which were specific, for instance it requested a commitment for ten years. The Board is of the view that TNPI operates in a sophisticated industry and any potential shipper interested in transporting product on the reversed line could have entered into discussions with the Applicant regarding different arrangements. The fact that Ultramar requested short-term transportation in addition to the contracted volumes indicates that it, at least, felt free to make such a request.

The Board is satisfied that the open season conducted by TNPI granted all potential shippers an equal opportunity to participate. In the Board's view, given that Petro-Canada and Ultramar have signed long-term ship-or-pay agreements, it is reasonable that they would expect priority access as a counterpart to this risk, in this case. Indeed, no party disputed this suggestion. The only disagreement was as to how much, if any, capacity should be made available for spot shipments to Toronto.

## 2.3 Priority Destinations

In its application, Trans-Northern requested that 11 900 $m^3/d$ be reserved on a priority destination basis for the Ottawa, Belleville, Kingston and Maitland terminals. Of that volume, it requested that the Mid-line Terminals (at Belleville, Kingston and Maitland) have priority destination access and be allocated 2 400 $m^3/d$, and Ottawa, 9 500 $m^3/d$.

The available capacity to the Mid-line Terminals would be as follows:

- Maitland : 468 $m^3$/d (19 percent);
- Kingston : 890 $m^3$/d (37 percent); and
- Belleville : 1 045 $m^3$/d (44 percent).

Trans-Northern stated that the terminal owners and shippers agreed with these volumes. These terminals are owned and operated by Imperial (Belleville), Shell (Kingston) and Ultramar (Maitland). TNPI justified this reservation of capacity for Ottawa, Belleville, Kingston and Maitland as its responsibility to ensure that the existing markets are supplied.

In the opening statement it made at the start of the hearing, TNPI stated that it expected the actual usage for the Mid-line Terminals would range from 1 500 to 1 700 $m^3$/d. Therefore, the amount of capacity for spot shippers from Montréal to Toronto would be 700 to 900 $m^3$/d . It estimated the future capacity usage of the Mid-line Terminals by examining the historical usage of the pipeline; the expected usage for product originating in Montréal rather than Toronto; and the economics for refiners shipping by pipeline, rail or truck.

In final argument, TNPI amended the application by withdrawing its request for priority destination status for the Mid-line Terminals. Therefore, should the Board approve the priority access volumes of 9 100 $m^3$/d from Montréal to Toronto, all of the remaining volumes between Farran's Point and Toronto would be available for spot shipments. Nine percent of the capacity or 900 $m^3$/d from Belleville to Toronto would therefore be available on this basis (assuming the volumes were not taken up by the Mid-line Terminals) while the Mid-line Terminals would be assured of 1 500 $m^3$/d given the pipeline's physical constraints.

Petro-Canada indicated that it would prefer that the application, as initially submitted, be approved, but on a practical basis submitted that removing priority destinations would be acceptable. Ultramar argued that, having regard to historic trends and the relatively new presence of its modernized Maitland terminal, there should be no priority destinations. It submitted that the 2 400 $m^3$/d of priority access for the Mid-line Terminals is not necessary as 1 500 $m^3$/d is available. Therefore, Ultramar agreed with TNPI's amendment to its application in this regard.

Shell, as a Mid-line Terminal owner, stated that it did not support priority destination allocation. Suncor also opposed the granting of priority status to destinations that have not assumed any financial risk in connection with the Project.

***Views of the Board***

The Board notes that the application, as originally filed, provided for priority destinations for the Mid-line Terminals, leaving no available capacity for spot shipments of volumes to Toronto unless either the Mid-line Terminals did not nominate for the volumes designated for those locations, or Petro-Canada or Ultramar did not nominate for their full priority access volumes. By removing the priority destination request from the application, 900 $m^3$/d of capacity from Farran's Point to

Toronto will be available. Given the pipeline's physical configuration[4], the Mid-line Terminals would still be assured of 1 500 $m^3/d$ of capacity. The evidence indicates that 900 $m^3/d$ or nine percent of the capacity downstream of Belleville would be available for spot shipments. The Board finds these arrangements to be responsive to the requirements of the market and accepts TNPI's amendment to its application in this regard.

## 2.4 Priority Access and Common Carriage

Trans-Northern stated that, in order to secure adequate financing and to ensure the long-term viability of the Project it required firm ship-or-pay commitments from shippers for available capacity from Montréal to Toronto. Therefore, as a result of the open season, it entered into long-term ship-or-pay agreements with Petro-Canada and Ultramar.

Petro-Canada and Ultramar requested 10 000 $m^3/d$ (8 000 $m^3/d$ and 2 000 $m^3/d$, respectively) of priority access between Montréal and Toronto. TNPI in its application indicated that the maximum capacity between Farran's Point and Belleville post-reversal would be 11 500 $m^3/d$. Of that volume, the Mid-Line Terminals would require 2 400 $m^3/d$, leaving 9 100 $m^3/d$ available for shipments to Toronto. Trans-Northern reduced the volumes to Petro-Canada and Ultramar to 7 280 $m^3/d$ and 1 820 $m^3/d$, respectively, and applied to have these volumes allocated to both shippers on a priority access basis.

As part of its application Trans-Northern requested an order pursuant to subsection 71(1) of the Act "for capacity access to certain shippers... falling within the exemptions that the Board may prescribe". In final argument Trans-Northern varied its application, to request a section 71 order only if such an order is found to be necessary. It submitted that because of the open season process, whereby any person interested in shipping had the opportunity to contract for the volumes, all of the volumes shipped to Toronto would be common carrier volumes. The Applicant further noted that because of the amendment to remove priority destinations and the reduction in the forecasted requirements of the Mid-Line Terminals to 1 500 $m^3/d$, 900 $m^3/d$ of capacity would be available for spot shippers. Given these two factors, Trans-Northern was of the view that an order exempting it from section 71 was not required, as it was fully meeting the common carrier requirements of the Act.

Trans-Northern argued that Petro-Canada and Ultramar should be granted the priority access volumes applied for, without further reduction. It noted that questions had been raised about previous Board decisions on this issue but submitted that the Board's IPL Line 9 Decision (OH-2-97)[5], requiring that 20 percent of capacity be reserved for nominations on a monthly basis, should not be used as a precedent. Trans-Northern stated that it structured the open season to address the concerns raised by the Board in that Decision. Further, TNPI is a refined products pipeline which operates in a more competitive environment and other options are available to shippers to transport these products. Trans-Northern suggested that if the 20 percent reduction in priority access were applied in this case, the Project would be economically doubtful.

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[4] There is 11 500 $m^3/d$ of available capacity between Farran's Point and Belleville but only 10 000 $m^3/d$ of available capacity west of Belleville.

[5] Interprovincial Pipe Line Inc., Facilities and Toll Methodology, Reasons for Decision OH-2-97, dated December 1997 (hereinafter, Line 9 Decision)

Petro-Canada believed that since it was prepared to financially guarantee the Project, it should be entitled to have priority access as provided for in the FSA, without reduction (aside from the reduction required to accommodate Ultramar). It also noted that the evidence showed that the only long-term demand for capacity came from Petro-Canada and Ultramar. According to Petro-Canada, if the ability of future shippers to access the pipeline is a concern, then it should be left for consideration if and when such shippers materialize.

In Petro-Canada's view, there have been changes in the industry that have been recognized in recent Board's decisions which have caused the treatment of common and contract carrier pipelines to become less distinguishable. It argued that approval of priority access could be done by granting a section 71 exemption, as was originally applied for, but other approaches used to approve priority access would be acceptable as well.

Petro-Canada noted that in the IPL NGL Facilities Decision (GHW-5-90 and RH-3-90)[6], the Board granted priority access for 100 percent of the capacity to prospective shippers. In the Express Decision (OH-1-95)[7], the Board found that with 85 percent of the capacity allocated for priority access, Express had not contravened its common carrier obligations. Petro-Canada argued that the IPL Line 9 Decision, which required 20 percent of capacity to be made available for spot shippers was based on two primary considerations: there were many uncertainties in the open season process (for example, timing, cost, tolls); and the fact that Line 9 represented the only direct connection to bring offshore crude oil to the Ontario market. Petro-Canada concurred with Trans-Northern that the open season was carefully structured and addressed the issues regarding uncertainties discussed in the Line 9 Decision.

Petro-Canada's position was that it has made a significant concession by accepting a reduction from its request of 8 000 $m^3/d$ to 7 280 $m^3/d$ in an attempt to accommodate other shippers. It recommended that the Board approve the priority access of 9 100 $m^3/d$ from Montréal to Toronto.

Although it requested 2 000 $m^3/d$, Ultramar stated that it was prepared to accept the priority access volume reduction to 1 820 $m^3/d$. It submitted that the commitment of the priority access shippers, particularly Petro-Canada, is necessary in order for the Project to proceed. It cited the IPL NGL Facilities and Express Decisions to support the proposal that the Board should grant priority access as requested. Ultramar distinguished the Line 9 Decision on the grounds that, in addition to the uncertainties noted by Petro-Canada, the Line 9 reversal involved very complex tolling issues.

Suncor acknowledged that the vast majority of the available capacity should be allocated to those parties who have signed an FSA or a PAA, but opposed TNPI's proposal to commit 9 100 $m^3/d$ of available capacity to contract shippers. Suncor submitted that the Board should be very reluctant to completely abandon common carriage on a pipeline which has been operating in that mode for a long time, without clear and compelling reasons to do so which do not exist in this case.

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[6] Interprovincial Pipe Line Company, a division of Interhome Energy Inc., Facilities and Tolls Reasons for Decision GHW-5-90 and RH-3-90, dated February 1991 (hereinafter IPL NGL Facilities Decision).

[7] Express Pipeline Ltd., Facilities and Toll Methodology, Reasons for Decision OH-1-95, dated June 1996, (hereinafter Express Decision).

The Line 9 Decision was relied on by Suncor as providing a useful guide for the current situation: in both cases the benefits associated with the pre-existing infrastructure are essential to the economics of the project. It distinguished the IPL NGL Facilities and Express Decisions given that both related to greenfield facilities. Suncor submitted that it would be fair and reasonable in these circumstances to keep something in the area of 15 percent of capacity available to spot shippers. More importantly, it is looking to the Board to determine what is fair in balancing the interests of all parties.

Suncor further submitted that Petro-Canada and Ultramar should not share in the available unsubscribed capacity unless third party nominations do not completely fill that available capacity. Without this restriction, Petro-Canada and Ultramar could nominate for the available capacity thus limiting others' abilities to ship. Suncor indicated that it would consider shipping petroleum products when it performs annual refinery shutdowns or experiences periodic refinery upsets.

In Shell's view, the Applicant had adequately justified providing for some priority access, but it had not provided sufficient evidence to justify the extent of the applied-for departure from common carriage. Shell submitted that Trans-Northern's common carriage obligations may be varied but such a determination should be made on principles and relevant factors. Further, suggesting that the open season makes all volumes on the pipeline common carrier volumes ignores the pipeline's duty to receive and transport volumes tendered to it. Shell recommended that TNPI maintain access to its system for 2 000 $m^3/d$ for spot shipments from Belleville to Toronto. This view was based in part on the fact that the Project relied extensively on and benefits from the use of existing, depreciated facilities which would not be readily expandable.

Shell was concerned that Petro-Canada and Ultramar would maintain 100 percent of their priority access volumes in the secondary term while their obligation to ship-or-pay, and hence the risk assumed, would be limited to about 20 percent of that volume. It recommended that the Board require Trans-Northern to reapply for priority access prior to the commencement of the secondary term.

The Procureur général du Québec argued that it did not oppose granting priority access when major investments are made to ensure the economic viability of a project, but was of the view that a percentage of capacity should be reserved for spot shippers, as required by the Board in the Line 9 Decision.

*Views of the Board*

**Legislative Requirements**

The *National Energy Board Act* does not define or use the term common carrier. Nor does it establish whether, and if so under what circumstances, priority access may be granted on an oil pipeline. However, the duties of pipeline companies for the transmission of oil or gas are set out in section 71 of the Act. The pertinent subsection regarding oil pipelines states:

> (1) Subject to such exemptions, conditions or regulations as the Board may prescribe, a company operating a pipeline for the transmission of oil shall, according to its powers, without delay and with due care and diligence, receive, transport and deliver all oil offered for transmission by means of its pipeline.

Thus the Board has broad discretion in determining compliance with this section and could, if it found it necessary and in the public interest, grant an exemption from the requirements of section 71. As the Board found in the MH-4-96 Decision,

> [c]ompliance with the common carrier provisions is determined by a test of reasonableness, which is a relative concept. Section 71 of the NEB Act is consistent with [the] common law approach because it permits the Board to tailor the statutory obligations of both oil and gas pipelines to fit any unique circumstances which may exist. Thus, the Board can increase or decrease the statutory common carrier obligations of an oil, gas or commodity pipeline in respect of their carriage of oil, gas or another commodity.[8]

**TNPI Capacity Expansion and Line Reversal Application**

The starting point for common carrier pipelines is that they must transport and deliver all oil offered for transmission. However, allowing for the long-term contracting of transportation of some of the capacity may be consistent with this tenet. In so doing, it is generally important that some capacity remain available for spot shipments from all sources and to all locations on the system.

Balancing the need to maintain some access for shippers who wish to nominate on a spot basis is the fact that shippers willing to sign ship-or-pay agreements and backstop projects have a legitimate interest in secure access to the facilities. Projects such as this may be less likely to proceed

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[8] PanCanadian Petroleum Limited, Request for Service, Reasons for Decision MH-4-96, dated February 1997 at page 11.

unless the pipeline has clear evidence, such as long-term contracts, indicating that the capacity will be used and the project costs will be guaranteed.

The Board is of the view that establishing the appropriate level of capacity which will be available for spot shippers is a matter of judgment and involves a balancing of interests. In this instance, the Board is satisfied that Trans-Northern is meeting its common carrier obligations under the NEB Act, and that an order exempting the Applicant from the provisions of section 71 is not necessary in the circumstances. Therefore, Petro-Canada and Ultramar are granted priority access from Montréal to Toronto for 7 280 $m^3/d$ and 1 820 $m^3/d$ respectively for the terms set out in the FSA and PAA.

This decision is based primarily on two considerations. First, the amendments to the application removing priority destination status for the Mid-line Terminals resulted in 900 $m^3/d$ being made available for delivery of product anywhere between Farran's Point and Toronto. Second, as the Board found for the reasons given previously, a satisfactory open season was conducted.

Further, the Board had regard to the fact that Trans-Northern is a refined products pipeline and, while pipelines are recognized by many as being the preferred means of moving product, given their safe and economical nature, there are viable alternatives available to move products to the destinations served by TNPI. The Board also notes that no potential shipper came forward to indicate a firm intention to ship on an ongoing basis and that refiners and marketers have the ability to meet the market demands by product exchanges. In the Board's view, the nine percent of available capacity should be sufficient to meet the needs of spot shippers.

The Board does not accept Suncor's recommendation that Petro-Canada and Ultramar not be allowed to share in the available unsubscribed capacity unless third parties do not completely fill the pipeline. In the Board's view, such a suggestion is not in keeping with the common carrier principle and would amount to giving priority access to spot shippers.

## 2.5 Market Impacts

An assessment by Petro-Canada indicated that the Project should not have any disruptive impact on the ability to supply the Ontario market. All of the existing delivery locations on the Trans-Northern system would continue to be supplied post-reversal and the capacity would be adequate to meet current demand and provide for further demand growth. Ottawa would no longer be supplied from Toronto but would be supplied solely from Montréal. There would be no change in Nanticoke's capability to supply North Toronto, Pearson Airport and Oakville and these locations would also be supplied from Montréal post-reversal. The existing Mid-line Terminals would be supplied from Montréal instead of Toronto.

According to Petro-Canada, product exchanges would likely be required to meet current Ontario needs after reversal. The record shows that there are currently some 4 000 – 5 000 $m^3/d$ of product exchanges between Ontario and Quebec and estimated that additional exchanges could be about 2 000 $m^3/d$. There are principally two Ontario shippers who currently move product eastward to the Mid-line Terminals and Ottawa on a regular basis. They may enter into exchange agreements to source product at Montréal which could then be injected into TNPI for delivery to Ottawa and Mid-line Terminals. The reciprocal payback for such volumes received in Montréal would likely be done in the Toronto area, resulting in a net increase in availability of product in that market.

Petro-Canada's current Oakville refinery production of light oil products is 9 800 $m^3/d$. According to Petro-Canada, in order to meet the market requirements in Toronto if Petro-Canada closes the refinery at Oakville, sufficient alternate supply would be available from a combination of sources:

- increased production from Petro-Canada's Montréal refinery;
- increased supply from other Quebec refiners;
- access to imported products, particularly European gasoline which could be brought to Montréal; and
- increased production from Ontario refineries.

If Petro-Canada and Ultramar ship their full priority access volumes, and the remaining 900 $m^3/d$ of capacity downstream of Belleville is also used to ship to Toronto, then the 10 000 $m^3/d$ of capacity is sufficient to replace all Oakville refinery light oil production.

Suncor was concerned that TNPI had not examined in sufficient depth the potential impacts on the Ontario refining market, especially in the case where the proposed reversal occurs and Petro-Canada's Oakville refinery remains open. Suncor recommended that the Board impose a condition on TNPI that it advise the Board within 30 days of receipt of the Board's Decision whether or not Oakville will remain open. Petro-Canada opposed this condition given that its evidence was that the line reversal proceeding and the Oakville refinery remaining open were mutually exclusive options.

***Views of the Board***

In the Board's view, the Trans-Northern Project should allow the Ontario market to be adequately served. Pipeline capacity and refined products supply should be available to offset losses in production if the Oakville refinery shuts down. The changes in TNPI's operation should increase refined product supply flexibility in Ontario and should not have a negative impact on the economic efficiency of the market.

The Board is of the view that a condition requiring Trans-Northern to notify the Board regarding Petro-Canada's decision to close the refinery, as suggested by Suncor, is not required; similarly an examination of the case where the line reversal proceeds and the Oakville refinery remains

open is not required. The Board's decision on these matters is based on Petro-Canada's statement that it would close the Oakville refinery if it decided to proceed with the Trans-Northern reversal.

## 2.6 Economic Feasibility

TNPI stated that its FSA with Petro-Canada and PAA with Ultramar demonstrated the economic feasibility of the Project. Trans-Northern submitted that the 20-year term of these priority access agreements is to the economic and financial advantage of all shippers on the system. In its view, any lesser period would increase its future financial risk. The Project would allow for sufficient cash to be generated to fund the retirement of 75 percent of the new debt raised for the Project in the primary term and the remaining 25 percent in the secondary term. The incremental throughput resulting from the Project would lower tolls to shippers by an average of 13.5 percent and would provide TNPI with an acceptable return on capital investment at an acceptable level of risk.

Petro-Canada noted that it is prepared to guarantee both the development costs through backstopping arrangements and the costs of the Project through ship-or-pay commitments. Thus, there is no cost risk to the Applicant or other shippers because Petro-Canada has absorbed that risk. Petro-Canada submitted that the Project is a timely response to an urgent need. It is efficient, economic and it is in the public interest. Shell stated that it fully supported the issuance of a certificate to TNPI because the evidence amply demonstrates the required criteria of supply, markets and feasibility.

***Views of the Board***

The Board finds that the evidence establishes that the Project is likely to be used at a reasonable level over its economic life and the tolls are likely to be paid. Further, the Project is particularly advantageous because of the use of existing facilities which are approximately 50 percent depreciated.

Therefore, the Board finds that the Project is economically feasible.

## Chapter 3

# Financial Matters and Toll Methodology

TNPI stated that it intends to finance the Project entirely with debt and filed a letter from BMO Nesbitt Burns indicating that the financing for the Project would be available subject to certain conditions. The financial backstop provided by Petro-Canada and the long-term commitments from Petro-Canada and Ultramar provide guaranteed revenue flows.

It was proposed by Trans-Northern that it would continue to accrue allowance for funds used during construction (AFUDC) on assets placed in service prior to the reversal of the line and which would be required for the continuous operation of the existing service but would not be fully utilized until the line reversal is activated.

TNPI proposed to account for the retirements of certain facilities as Ordinary Retirements under section 39 of the *Oil Pipeline Uniform Accounting Regulations*.

Trans-Northern requested an order to continue to use a rolled-in toll methodology. This methodology was agreed to by all shippers and approved by the Board in 1996 in the RHW-3-96 Decision[9]. TNPI stated that it is expected that the shippers on the reversed line would be the same shippers as those prior to the reversal.

None of the intervenors expressed concern with respect to any of these matters.

***Views of the Board***

The Board is satisfied that TNPI has the ability to finance the Project.

The proposal to accrue AFUDC is appropriate, as the assets placed in service early will not be used and useful for their intended purpose until the line reversal is complete. The Board is also of the view that the proposed accounting treatment for retirements as Ordinary Retirements is appropriate. The Board also approves the rolled-in toll methodology for the Project.

[9] Trans-Northern Pipelines Inc, Toll Settlement, Reasons for Decision RHW-3-96, dated June 1996.

## Chapter 4

# Facilities

## 4.1 Appropriateness of Design

### Capacity Expansion

#### *Replacement of Pipe*

The Project includes the construction of four segments, totaling 72.5 km in length, of 406.4 mm (16 inch) diameter pipeline to replace existing 273.1 mm (10 inch) diameter pipeline in order to increase the capacity of the system. See Figure 4-1 for the locations of the segments.

The specifications for the larger pipeline would be:

- grade 359;
- category 1 pipeline;
- wall thickness of 7.14 mm;
- pipe coating: yellow jacket or fusion bond epoxy; and
- joint coating: shrink sleeves or two part epoxy.

The new sections of pipeline would be buried at a depth of 120 cm except at roads and railways where the depth would be increased to comply with the requirements of Canadian Standards Association (CSA) Z662, *Oil and Gas Pipeline Systems* and the *Standards Respecting Pipeline Crossings Under Railways (May 2001)*[10].

Where the existing line would tie into the new larger diameter pipe, internal inspection tool sending and receiving facilities would be installed. Mainline block valves would be replaced with valves of a larger size where necessary, a check valve would be added at Rivière Delisle and a motorized valve would replace the existing hand valve on the east side of that crossing.

### Upgrade to Pump Stations

TNPI would upgrade four of its existing pump stations located at Montréal, Como, Lancaster and Farran's Point, to allow additional volume of refined products to be transported. The upgrades would consist of the installation of new pumping units, driven by electric motors, and associated piping facilities.

[10] These standards were made pursuant to the *Railway Safety Act* R.S.C. 1985, c.32

**Figure 4-1**
**TNPI Current System and Proposed Changes (Enlargement of Figure 1-1, East of Farran's Point)**

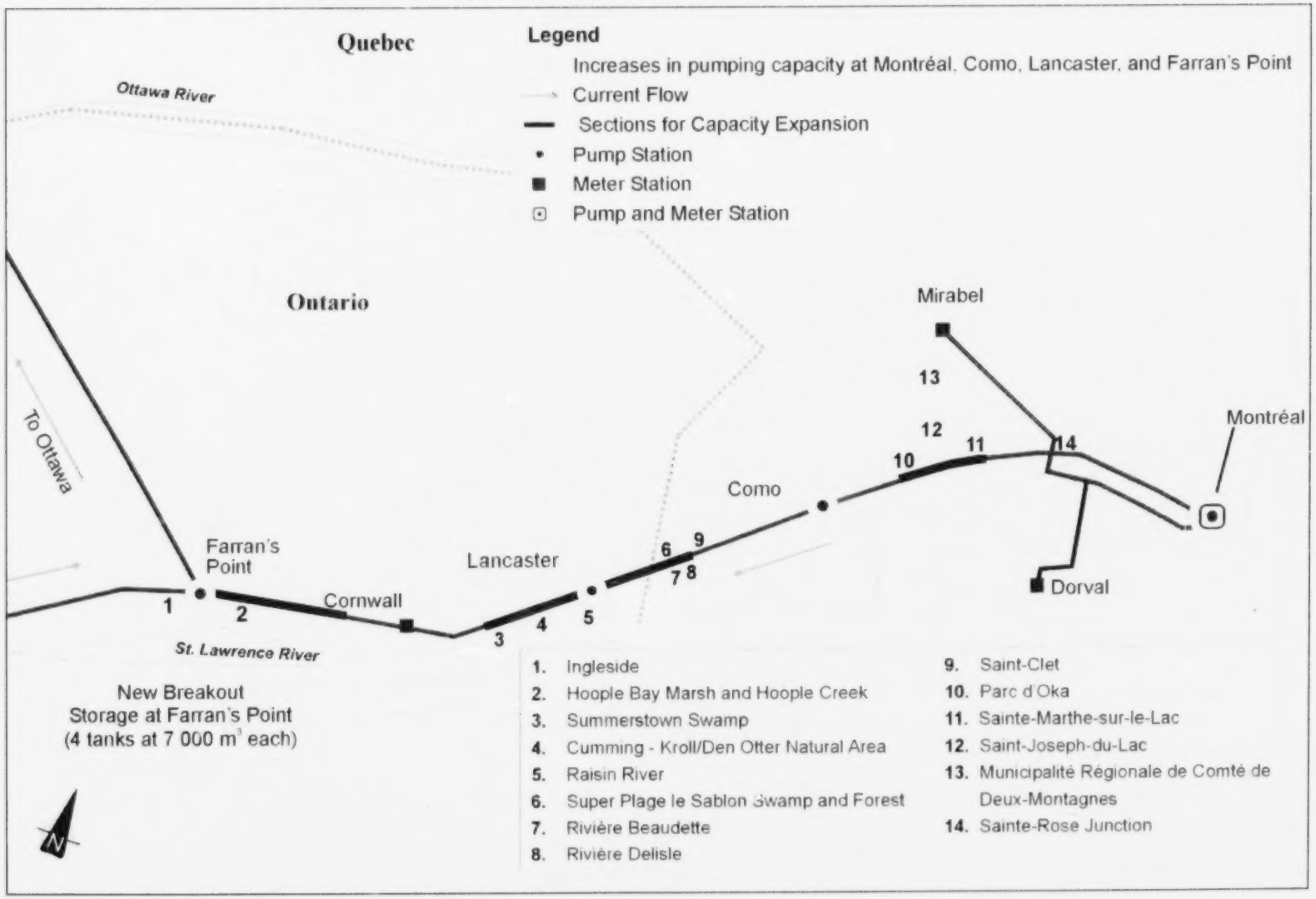
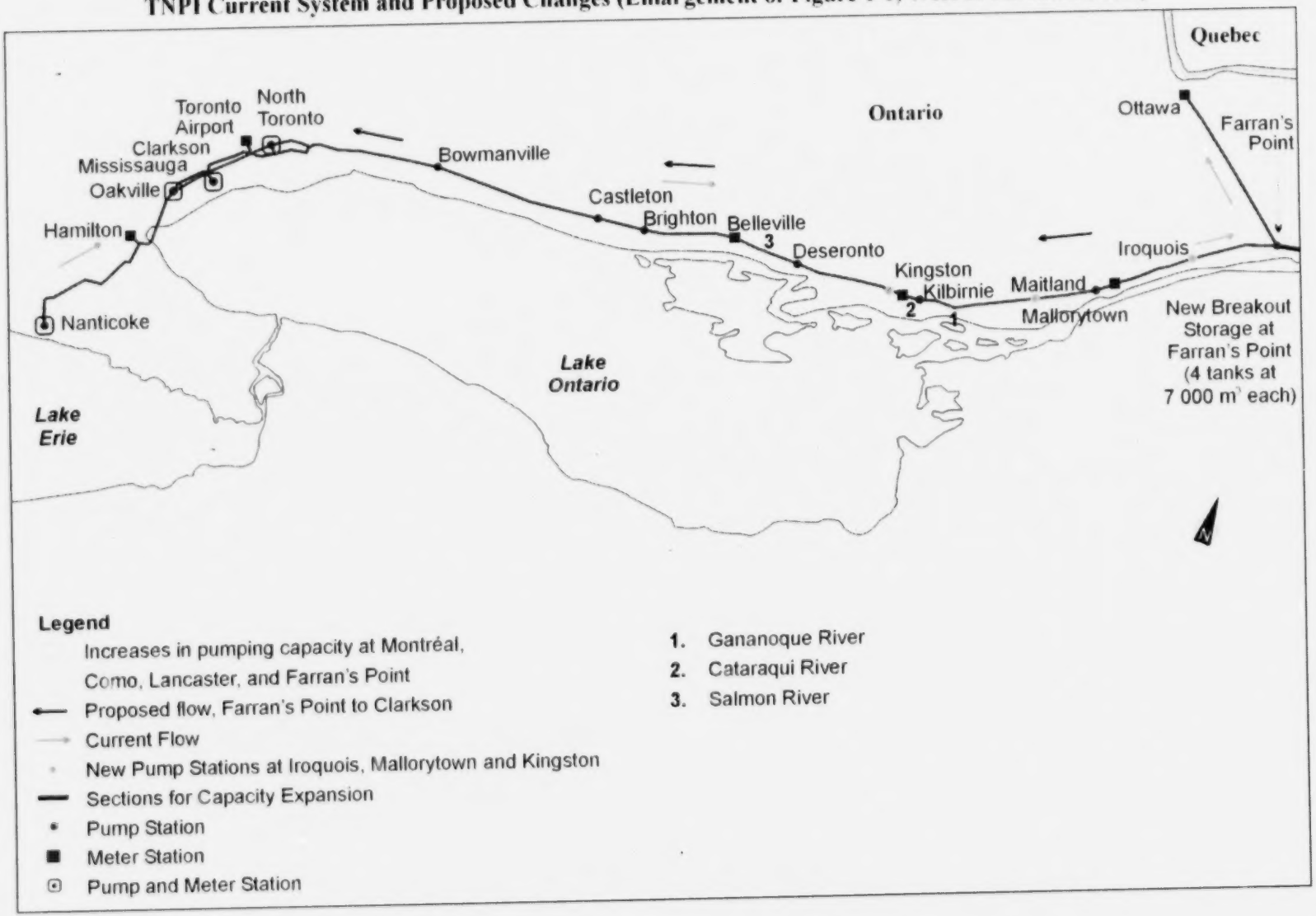


**Figure 4-2**
**TNPI Current System and Proposed Changes (Enlargement of Figure 1-1, West of Farran's Point)**



### *Construction and Operation of Storage Tanks*

The capacity expansion would include constructing four 7 000 $m^3$ storage tanks at TNPI's Farran's Point pump station and each would have the capability to store any of the petroleum product types transported on the pipeline. These tanks would accommodate the batching of various refined products and facilitate increased operating flexibility to Toronto and Ottawa. The tanks would be approximately 27.4 m (90 feet) in diameter with a height of approximately 14.6 m (48 feet) and the entire volume of the tanks would be above surface grade. The tanks would be of an internal floating roof design with a fixed roof on top to minimize vapour emissions. The installation of the tanks would also include connecting piping (both aboveground and underground), pressure relief equipment, overflow protection equipment, spill containment and collection facilities, tank and equipment foundations, cathodic protection, foam fire protection and electrical systems.

All piping would be hydrostatically tested. The integrity of new tanks would be tested in accordance with the CSA Z662 standard, which may include hydrostatic testing. Water for any hydrostatic testing would be obtained from local municipal supplies or from nearby natural water sources.

The Farran's Point station would continue to be remotely operated with maintenance activities conducted at their current frequencies.

## Flow Reversal

### *New Pump Stations and Pump Station Upgrades*

The pipeline flow reversal from Farran's Point to Mississauga would involve the construction of two new pump stations, located at Iroquois and Mallorytown, and the addition of pumps at the existing Kingston meter station, allowing for transportation of additional volumes. The locations of the pump stations are shown in Figure 4-2. All of the new pump stations would be constructed near existing power lines and would be driven by electric motors.

The existing pump stations at Maitland, Kilbirnie, Deseronto, Brighton, Castleton, Bowmanville, and North Toronto, Ontario would have their flow direction reversed. This would include station suction and discharge line and valve reconfiguration. The only change that would be required to pumping equipment would be at Deseronto where a pump and electric motor would be replaced by a larger unit.

All piping parts installed would be hydrostatically tested. The operation of all new pumping units would be remotely controlled via the supervisory control and data acquisition (SCADA) system.

### *Modifications to Meter Stations*

The flow reversal would require modifications to existing meter stations such that the station mainline block valve and interface detector would be moved from west to east of the take-off point.

***Reconfiguration of Block and Check Valves***

The flow reversal would require reconfiguration of block and check valves at a number of river crossings. Block and check valves are located at major water crossings on the line from Farran's Point station to Clarkson Junction. In order to fulfill their proper function when the flow direction would be reversed the position of check and block valves would have to be interchanged at each crossing. Existing valves at Gananoque River, Cataraqui River, and Salmon River crossings are hand operated and when relocated would be replaced with motorized valves.

***Interface Detectors***

Product interface detectors at Maitland, Kingston, Belleville, North Toronto and Toronto Airport Junction stations would be moved from the west to the east side of each station to accommodate the flow reversal. The purpose of these detectors is to identify the interface of each product transported and thus prevent contamination. They are typically installed within a vault at a distance of about 0.5 km from the take-off point and connected to electrical and communication circuits.

***Views of the Board***

The Board is satisfied that TNPI's proposed system changes required for the capacity expansion and line reversal are adequate. Trans-Northern will be required to seek approval pursuant to section 47 of the NEB Act for leave to open the new pipeline sections, new pump stations, tankage at Farran's Point and interconnecting facilities prior to the commencement of operations.

## 4.2 Pipeline Integrity

The proposed changes to the TNPI system to increase the capacity and reverse the flow would not require an increase in the maximum allowable operating pressure (MAOP).

**Montréal Feeder System**

The Montréal Feeder System is 2 775 m in length, consisting of 978 m of new coated pipe and 1 797 m of reconditioned original pipe. TNPI stated that it maintains and monitors the fitness of the feeder system through various activities such as annual cathodic protection readings, tri-annual close interval surveys, examination of condition of the pipe and its coating whenever the pipe is exposed, annual calibration of pressure relief valves, and monitoring of product movements through the SCADA line balance system.

**Replacement of Pipe**

Trans-Northern stated that the new segments of pipeline would be hydrostatically tested. In addition, the Applicant committed to comply with the *Onshore Pipeline Regulations, 1999*

(OPR-99). Section 17 of the OPR-99, as amended by MO-8-2000[11], requires companies to examine the entire circumference of each joint. The new segments would be bonded to the existing impressed current cathodic protection system and would be monitored as required by TNPI's existing monitoring protocol.

**Flow Reversal**

Trans-Northern conducted an engineering assessment which considered potential risk to the integrity of the pipeline. TNPI reviewed its entire pipeline segment from Montréal to Oakville, and identified 15 sections that would experience an increase in operating pressure. TNPI concluded that the increased pressure on those sections would not significantly increase the risk to the integrity of its pipeline. It indicated that as part of its ongoing maintenance and pipeline integrity management system, it would remove approximately 141 vintage full encirclement sleeves where there is an increase in pressure. The vintage sleeves would be cut out as cylinders and replaced with new pipe manufactured in compliance with the current CSA Z245 code.

On 7 December 2002, a failure occurred on the 273.1 mm (10 inch) pipeline, near Saint-Clet, Quebec. The Applicant indicated that the incident occurred at the site of third party mechanical damage inflicted on the pipeline more than 20 years ago. The feature was incorrectly interpreted as a field bend and no analysis was conducted in order to determine whether there was a correlation between the feature and the actual field topography. As a result of the failure, TNPI indicated that it had changed its analytical procedure to ensure that pipe deformation indications are correlated with known topography or alignment features. If the analysis failed to establish a correlation, further investigation would be performed such as determining the clock position of deformation on pipe and the likelihood of third party damage matching clock position, as well as conducting land use and field investigations. In addition, a comparison of tool estimates versus actual findings would be performed.

Trans-Northern indicated that its entire system is surveyed using internal inspection technology on a five year cycle. In light of the Saint-Clet incident, the Applicant decided to re-examine historical in-line inspection (ILI) tool run data. The historical data for the Sainte-Rose Junction to Farran's Point station, which includes Saint-Clet, was reviewed by TNPI and four possible features were identified. It was confirmed during the hearing that the four possible features were actual dents and it was estimated that three of them may contain metal loss. Trans-Northern retained consultants to examine the historic in-line inspection data for the segments between Hamilton Junction to Bowmanville pump station and Bowmanville pump station to Farran's Point pump station. TNPI expects that the re-examination would be completed by the end of 2003.

Trans-Northern also indicated that its mainline has never experienced a failure due to long-seam defects attributed to low frequency electrical resistance welding (62.5 Hz), which was the manufacturing process used in 1952 when the original pipeline was built. TNPI reached the conclusion that long-seam defect failure does not present a risk based on the pipe testing performed, the manufacturing process and the history of the pipeline. However, TNPI

[11] Order MO-8-2000, dated 28 April 2000, requires pipeline companies to nondestructively examine the entire circumference of each weld on a pipeline using radiographic, ultrasonic or other appropriate nondestructive examination methods.

committed during the hearing to comply with a possible condition which would require the company to examine 10 to 15 percent of the vintage full encirclement sleeves to be removed, for long-seam defects, prior to line reversal.

In order to protect the pipeline from external corrosion, Trans-Northern has a cathodic protection system in place. In wetland areas, concrete coating or weights would be used as buoyancy control techniques. TNPI indicated that specific measures would be implemented to ensure that pipe corrosion under the concrete coating or the weights would not occur. During the hearing, the Applicant agreed that it could provide additional information to the Board with regard to the cathodic protection in wetland areas, prior to construction.

***Views of the Board***

The Board is generally satisfied with TNPI's proposed measures to ensure the integrity of its system. However, in order to verify the effectiveness of Trans-Northern's maintenance and pipeline integrity management system, the Board finds that it would be appropriate to include a condition, in any certificate which may be issued, to require TNPI to provide a detailed summary of the results obtained from the re-examination of historical ILI run data of its mainline and the mitigative measures to be implemented by TNPI. The Board would also include a condition requiring the Applicant to provide the specific measures to be implemented to ensure cathodic protection in wetland areas.

The Board is of the view that with the proposed measures, combined with the information to be provided to the Board prior to operation, the integrity of TNPI's mainline would allow for the safe operation of the system.

## 4.3 Horizontal Directional Drilling

Horizontal directional drilling would be used to install a pipeline of 406.4 mm (16 inch) with a wall thickness of 7.14 mm, across Rivière Beaudette, Rivière Delisle, and Raisin River and also possibly across Hoople Creek.

At the Raisin River crossing, the original pipeline was replaced by a directionally drilled crossing in 1995. Trans-Northern proposed that the original line, which had been capped, filled with nitrogen and cathodically protected, would be hydrostatically tested and put back in temporary service. The currently operating 273.1 mm (10 inch) line, would be removed and the borehole would be reamed out to accept the larger 406.4 mm pipeline. Once the installation of the larger line is completed, the original crossing would be abandoned and filled with lean concrete. The Applicant indicated that it does not anticipate any difficulties pulling out the existing directionally drilled line. In the event it becomes impossible to remove the line, it would be filled with a lean concrete mixture, capped and abandoned in place. A new crossing alongside the existing crossing would be constructed within the right of way (ROW).

***Views of the Board***

The Board is satisfied with the overall measures TNPI is proposing for directionally drilling each crossing. However, given that the pipeline under the Raisin River to be hydrostatically tested and put back in operation temporarily has not been used for some time, the Board would require a condition to be included in any certificate issued relating to the hydrostatic test of that line.

## 4.4 Safety of Design and Operation

Trans-Northern submitted that the proposed project would be designed, constructed and operated in accordance with the OPR-99 which specify that the design, installation, testing and operation of the pipeline must be in accordance with the applicable provisions of the CSA standard Z662, and all the applicable standards, specifications and codes that are incorporated by reference in that standard. TNPI has also committed to comply with other federal, provincial and municipal codes and regulations where applicable.

***Views of the Board***

The Board is satisfied that the proposed facilities would meet widely accepted standards, as well as the Board's OPR-99, for design, construction, testing and operation.

## Chapter 5

# Public Consultation

### 5.1 Early Public Notification

The purpose of an Early Public Notification (EPN) program, which is required under the Board's *Guidelines for Filing Requirements*, is to inform the public about a project, to seek public input into the route selection, environmental assessment and socio-economic impact assessment, to identify issues and concerns of those potentially affected by a project and to resolve issues. TNPI indicated that it has been conducting its Early Public Notification and Consultation Program (EPNCP) since late June 2002. The objective of Trans-Northern's EPNCP is to establish communication between it and affected parties.

In late June 2002, TNPI issued two information bulletins to interested persons. Information Bulletin "A" advised 375 landowners, residents and others about the capacity expansion between Montréal and Farran's Point. Information Bulletin "B" advised 57 residents and others about the new pump stations between Farran's Point and Mississauga.

The bulletins consisted of a covering letter, a factsheet describing the Project, the appropriate maps depicting the location of the Project, a self-addressed, postage-paid envelope, a return questionnaire and telephone and fax numbers for the Applicant.

In February 2003, TNPI held, at the Board's request, a series of six open houses to which residents and other interested persons were invited, by way of newspaper advertisements, to attend. These public open houses were conducted in Saint-Joseph-du-Lac, Saint-Clet, Lancaster, Ingleside, Brockville, and Kingston. TNPI also provided stakeholders with information regarding the Board's procedures for examining the application, such as *Pipeline Regulation in Canada – A Guide for Landowners and the Public, Excavation and Construction Near Pipelines*, and *Living and Working Near Pipelines*. In addition, TNPI provided other documents such as its *Environmental Practices Manual, Your Pipeline Neighbours, Farm Activity and Pipeline Safety*, and *Public Safety & Environmental Protection* and at length addressed pipeline abandonment methods and implications. A total of 550 information packages were distributed to stakeholders including 432 who received the original information packages.

TNPI stated that the main concerns brought forward from landowners were: construction timing; Project duration; construction methods; compensation issues; restoration; drainage; routing, access, and safety concerns; depth of the new 406.4 mm (16 inch) pipeline; disposition of the 273.1 mm (10 inch) pipeline; valve sites or scraper trap installations; and employment opportunities. Municipalities were concerned with crossings of roadways and municipal drains.

The Applicant also made contact and held meetings with landowners, and with representatives of l'Union des producteurs agricoles, Parc d'Oka, Municipalité Régional de Comté de Deux-Montagnes (MRC) and other provincial and federal agencies.

TNPI made commitments to continue the EPN process through the regulatory filing, application and construction stages of the Project and to distribute another information bulletin to all potentially affected parties and other stakeholders following the Board decision on the application.

***Views of the Board***

The Board is of the view that Trans-Northern's EPN program satisfactorily identified the issues and concerns of landowners and other stakeholders and that these concerns have been, and will continue to be, addressed by TNPI.

## 5.2 Aboriginal Peoples

As indicated in the Board's Environmental Screening Report, TNPI advised the Mohawk Council of Akwesasne and the Mohawk Council of Kanesetake of the Project in January 2003 and made a number of follow-up contacts by telephone in February and March 2003. No issues or concerns related to the proposed Project were raised by either of the Mohawk Councils. At the hearing, Trans-Northern confirmed that, based on their efforts and observations, there is no current use of lands and resources for traditional purposes in the Project area.

***Views of the Board***

The Board notes TNPI's efforts to inform the Mohawk Councils of Akwesasne and Kanesetake of the Project and to assess the current use of the land and resources for traditional purposes within the Project study area. The Board is of the view that Trans-Northern has taken appropriate steps to identify concerns that Aboriginal peoples may have had regarding the proposed Project.

Chapter 6

# Routing and Land Matters

## 6.1 Routing

TNPI indicated that the Project would be installed within its existing ROW and station properties, with the exception of lands that it would acquire for the Farran's Point tank farm and the three new pumping stations. It specified that the new pipe would be installed within the confines of the existing 18.3 m wide easement, at an anticipated centre line to centre line distance of one to three metres from the existing pipe, except for two short lengths:

- approximately 2.2 km at Hoople Bay, where the pipe would be installed in a previously acquired but unoccupied ROW; and
- approximately 2.5 km situated in Parc d'Oka, where the current ROW varies from 6.1 m to 12.2 m and Trans-Northern proposed to widen it to 18.3 m.

Following further discussions with the Parc d'Oka and the Société de la faune et des parcs du Québec, TNPI decided that it would not standardize the width of its easement, and would remain within its existing easement. Therefore, the only deviation from the existing ROW would be at Hoople Bay. The Hoople Bay easement was acquired in 1971 as a result of the construction of the St. Lawrence Seaway.

Some landowners and the MRC asked TNPI to study the possibility of re-routing the pipeline along the Highway 640 in Sainte-Marthe-sur-le-Lac and Saint-Joseph-du-Lac. In its letter of comment and presentation at the hearing, the MRC stated that it did not object to the proposed capacity expansion and the issuance of a certificate. However, it would like the pipeline to be re-routed along Highway 640 to reduce the level of risk and constraints associated with a pipeline corridor. The MRC wanted Trans-Northern to commit to study more appropriate alternative routes not on the basis of financial cost effectiveness but on social and environmental effectiveness. The MRC stated that it understood that TNPI has easement agreements and plans to install the new pipeline within the existing ROW, and if the pipeline were to be relocated, it would increase construction costs and impact Trans-Northern's schedule.

Trans-Northern indicated that it investigated possibilities for pipeline re-routing and it met with the MRC on 13 May 2003 to discuss these alternatives. However, the Applicant submitted that there is no viable re-location option along Highway 640, and no specific re-route has been proposed or developed. Trans-Northern further submitted that a risk analysis would not necessarily reach the conclusion that there has to be a large setback from the ROW or that the pipeline should be relocated. It indicated that its pipeline is a low vapour pressure pipeline, and as such, factors for population density do not apply to its design. However, Trans-Northern noted that even though it is not required do so, it took this element into account in developing its public awareness program. TNPI stated that it plans to remain within its existing ROW in the area of Sainte-Marthe-sur-le-Lac and Saint-Joseph-du-Lac.

***Views of the Board***

The Board has considered Trans-Northern's proposal to use its existing ROW and the new easement in Hoople Bay for the Project. While TNPI has no plans to re-route the pipeline along Highway 640, in the Sainte-Marthe-sur-le-Lac and Saint-Joseph-du-Lac area, the Board notes that it will be required to publish notices regarding the route pursuant to subsection 34(1) of the NEB Act should a certificate be issued. The detailed route may be subject to examination at that time. The Board considers TNPI's proposed corridor to be acceptable.

## 6.2 Land Requirements and Acquisition

The new pipe would be installed within the confines of the existing easement. Temporary work room and access would be required at various points along the route and would be the subject of negotiations with property owners prior to construction.

From Montréal to Farran's Point, TNPI would install new pumping units and associated piping facilities within the property limits of three existing stations. TNPI would be acquiring land adjacent to the Farran's Point pumping station in order to accommodate the tank farm. In the event that extra land could not be acquired, the tanks could be accommodated within the existing property.

In order to provide the pumping requirements for the reversed pipeline between Farran's Point and Mississauga, three new pumping stations and associated piping facilities would be required. All work at the new pumping stations would take place within the boundaries of newly acquired properties.

TNPI filed sample land acquisition documents to demonstrate compliance with sections 86 and 87 of the NEB Act. For all cases of new land rights acquisition, Trans-Northern stated that it would follow the notification requirements of section 87 and ensure that its land acquisition agreements contain the provisions specified in section 86. Temporary work room and temporary access to work sites would normally be secured by work permits.

A guide would be developed by the Applicant and provided to each affected landowner prior to negotiations. The guide would contain an outline of the general commitments made during landowner visits and during open houses.

***Views of the Board***

The Board has considered the amount of land required for the Project and finds that Trans-Northern's anticipated land requirements for the Project are reasonable and justified for the proposed facilities. The Board has also examined TNPI's land acquisition process and is satisfied with the acquisition process proposed.

## 6.3 Pipeline Abandonment

TNPI has applied for an order pursuant to section 74 of the Act for the abandonment of sections of its existing pipeline that would be replaced with the new 406.4 mm (16 inch) pipe. In its application, it stated that following the tie-in of the new proposed line, the replaced 273.1 mm (10 inch) pipeline would be retired from service and the retired pipe would either be abandoned in place or removed.

Hoople Bay is the only location where Trans-Northern does not intend to retain its easement after the abandonment of the existing pipeline. The pipe would be cut at two locations (KP 136.96 and KP 139.32), and the section of pipe between these two locations would be left in place and filled with a concrete mix. TNPI submitted that under provincial legislation, it would be subject to liability for the abandoned pipeline and that notwithstanding the legislation it would continue to maintain responsibility for the line in the event that a landowner wishes it to be removed. These practices have been implemented and used in the past by TNPI.

Trans-Northern stated that the five landowners who would be affected, had not been contacted to discuss the abandonment of the easement on their land. At the hearing, the Board proposed a set of conditions in relation to the abandonment of the easement at Hoople Bay, in the event that the application was approved. TNPI indicated that it did not have any concerns regarding these conditions.

***Views of the Board***

Although Trans-Northern applied for an abandonment order pursuant to section 74 of the Act, the Board is of the view that such an order is not required in this instance. Decommissioning of sections of the pipeline is a necessary component of increasing pipe size. Further, abandonment of the pipeline as well as the easement at Hoople Bay, to allow for a re-routing, will not result in a discontinuance of service. Any conditions relating to the abandonment in place of sections of the pipeline and abandonment of the easement at Hoople Bay can be included in any section 52 certificate issued.

Once the pipeline is removed from service and the easement abandoned, the Board will no longer have jurisdiction over the easement or the facilities. In the event of a dispute between a landowner and the company, it will be impossible to seek the Board's assistance or intervention. Therefore, the Board is of the view that landowners must agree on the method of abandonment and on remediation before the easement is abandoned.

Should a certificate be issued, once all other conditions relating to abandonment have been met, Trans-Northern would be required to file with the Board a certified copy of any resolution of the Board of Directors declaring that the abandoned facilities constitute property surplus to its requirements.

## Chapter 7

# Environmental and Socio-Economic Matters

## 7.1 Environmental Matters

The Board examined environmental issues related to the Project. Key environmental issues included environmentally sensitive areas, species at risk, soil preservation in agricultural lands, and contamination associated with the pipeline which would be abandoned. For more information about these issues, see the screening report available from the Board.

***Views of the Board***

The Board is a responsible authority under section 5 of the *Canadian Environmental Assessment Act* (CEA Act) for the proposed Project and must conduct an environmental assessment of it before irrevocable decisions are made. The Board determined that an environmental screening was required.

In this case, for ease of administration and to avoid duplication, the Board conducted an environmental screening pursuant to section 18 of the CEA Act in conjunction with the hearing process established under the NEB Act. Through the hearing process, members of the public were given notice of the proceeding and were extended an opportunity to either participate in the hearing or file letters of comment. In the conduct of the screening and preparation of the screening report the Board considered all of the evidence related to CEA Act matters that was on the public record in this proceeding.

The Board has determined, pursuant to the CEA Act, that, taking into account the implementation of TNPI's proposed mitigative measures and compliance with the Board's regulatory requirements and the conditions attached to the screening report, the proposed Project is not likely to cause significant adverse environmental effects.

In the screening report, the Board identified a number of conditions related to environmental matters that, should a certificate be issued for the Project, would be imposed.

## 7.2 Socio-Economic Matters

As noted in section 7.1, the screening report included an assessment of certain socio-economic effects of the Project on the human landscape, agriculture and specialty crops, parks and recreation, use of lands and resources for traditional purposes, archeological and historic resources, and human health.

**Construction Workforce**

TNPI stated that the construction activity is short in duration and would largely take place in rural areas. Construction would occur in the vicinity of metropolitan areas along the pipeline corridor, therefore, no adverse effects would accrue to services associated with the maintenance of the workforce.

Short-term, local employment opportunities would be created by the Project. TNPI indicated that the Project is planned to be executed over a ten-month period and that the peak construction workforce would be about 600 at any one period during construction. The Project would provide approximately 3,000 person-months of employment during construction.

**Local Access and Transportation**

During the EPNPC program, concerns were expressed by some residents regarding access along neighboring roadways during construction. In addition, some farmers expressed concerns with respect to access to other fields across the pipeline ROW during construction. TNPI advised landowners that disruption to local roadways would be minimized and that access routes to farmers' fields for both equipment and cattle would be maintained during construction.

Only two residents expressed concern over safety during construction, these related to trenching and construction equipment. In these cases, the ROW is in close proximity to residential properties where children may be present. Residents were advised that Trans-Northern would ensure that all safe working practices would be employed during construction activities. This would include fencing of open trenches and minimizing the duration of open trenching near residential areas.

Municipalities inquired about the crossing details of roadways and municipal drains. Municipalities were assured that TNPI would apply for all necessary permits prior to commencing construction. The Applicant also indicated that heavily traveled roads would likely be crossed using a conventional bore, allowing traffic flow to continue with minimal disruption. Smaller roads with less traffic may be partially shut down or completely closed and detour routes established until construction across the roadway is completed.

Trans-Northern stated that any short-term social impacts that would occur from the Project would be minor in nature and would be mitigated through its standard construction practices, safe working procedures and mitigation measures.

***Views of the Board***

The Board decided in the screening report that if the proposed Project was approved it would be on the condition that Trans-Northern file a report regarding its archaeological assessments.

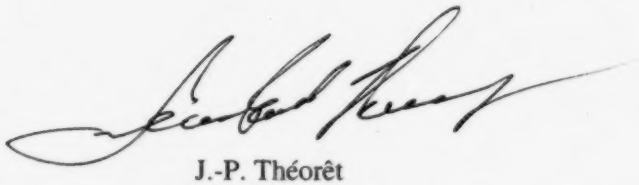
The Board is satisfied that the accommodation and personal service needs of the construction workforce can be satisfactorily provided in the local service area and that construction of the Project would provide a net positive economic benefit to the region. The Board is also of the view that, with the implementation of TNPI's proposed construction access plans, effects of the Project on local residents, landowners and municipalities would be minor and short-term in duration.

## Chapter 8

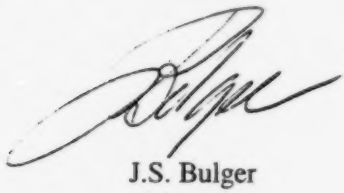
# Disposition

The foregoing chapters constitute our Decision and Reasons for Decision in respect of the application heard before the Board in the OH-1-2003 proceeding.

The Board is satisfied from the evidence that the proposed increase in the pipeline capacity of TNPI's petroleum products pipeline system from Montréal, Quebec to Farran's Point, Ontario and the reversal of the direction of flow of the pipeline between Farran's Point and Mississauga, Ontario are and will be required by the present and future public convenience and necessity. The Board approves Trans-Northern's application, for the increased capacity and the reversal and will, subject to approval of the Governor in Council, issue a certificate of public convenience and necessity pursuant to section 52 of the NEB Act subject to the conditions set out in Appendix II.



J.-P. Théorêt
Presiding Member



J.S. Bulger
Member

G. Caron
Member

Calgary, Alberta
July 2003

## Appendix I

# List of Issues

The Directions on Procedure identified the following list of issues for discussion in the OH-1-2003 proceeding:

1. The need for the expansion and line reversal.

2. The economic feasibility of the proposed facilities.

3. The method of financing the proposed facilities.

4. The potential commercial impacts of the project.

5. The potential environmental and socio-economic effects of the proposed facilities, including those factors outlined in subsection 16(1) of the *Canadian Environmental Assessment Act*.

6. The appropriateness of the routing and location of the proposed facilities, land requirements and land rights acquisition process of the expansion.

7. The reasonableness of the open season process and the proposed operation of the pipeline with contracted capacity.

8. The appropriate costs and toll methodology for the dedicated facilities.

9. The appropriate design and size of the applied-for facilities.

10. The terms and conditions to be included in any approval the Board may issue.

## Appendix II

# Certificate Conditions

**General**

1. Unless the Board otherwise directs, TNPI shall cause the approved facilities to be designed, manufactured, located, constructed, installed, and operated in accordance with those specifications, drawings, and other information or undertakings set forth in its application, or as otherwise adduced in evidence as part of the OH-1-2003 proceeding.

2. Unless the Board otherwise directs, TNPI shall implement or cause to be implemented all of the policies, practices, recommendations and procedures for the protection of the environment included and referred to in its application, or as otherwise adduced in evidence as part of the OH-1-2003 proceeding.

3. TNPI shall construct the crossings of the Raisin River, Rivière Beaudette and Rivière Delisle using the horizontal directional drill method or, if this is not feasible for any of these crossings, shall apply to the Board for approval of an alternative crossing technique and include an environmental assessment of the proposed alternative with its application.

**Prior to Construction**

4. TNPI shall, prior to construction of the pump station facilities and Farran's Point tank facility, file with the Board a letter confirming that all required land rights have been acquired for each facility and ancillary works.

5. TNPI shall file with the Board, 90 days prior to clearing or construction activity, or as otherwise directed by the Board, the methodology to be used for its assessment of fragmentation and edge effects, with evidence that Environment Canada has been consulted and the results of this consultation.

6. Unless the Board otherwise directs, TNPI shall file, with the Board for approval, at least 90 days prior to any clearing or construction activities, an Environmental Protection Plan (EPP) for the Project including:

    a) all applicable environmental information and undertakings given during the OH-1-2003 proceeding; and

    b) a description of TNPI's environmental training program;

    c) evidence that Environment Canada has been consulted regarding the EPP and the results of this consultation.

7. TNPI shall file with the Board at least 60 days prior to the commencement of construction activities, or as otherwise directed by the Board:

a) a report on its Stage 1 and Stage 2 archaeological studies in Ontario and Quebec, including the methodology used, the results of field surveys and the proposed mitigation measures; and

b) copies of all correspondence from the Ontario and Quebec provincial archaeological authorities regarding the acceptability of TNPI's archaeological studies, including the methodology used, the results of field surveys, and the proposed mitigation measures.

8. TNPI shall file with the Board for approval, 45 days prior to clearing or construction activity, or as otherwise directed by the Board, the results of its assessment of fragmentation and edge effects including any recommended mitigation, with evidence that Environment Canada has been consulted and the results of this consultation.

9. TNPI shall develop, in consultation with Environment Canada (EC), Ontario Ministry of Natural Resources (MNR), and Société de la faune et des parcs du Québec (FAPAQ), a species at risk management plan. TNPI shall file the species at risk management plan with the Board for approval, at least 45 days prior to clearing or construction activities, or as otherwise directed by the Board, with evidence that EC, MNR, and FAPAQ have been consulted regarding the species at risk management plan, and the results of this consultation. The plan is to include:

a) a complete list of provincially- or federally-listed wildlife and plant species with the potential to be within the zone of influence of the Project;

b) the provincial and/or federal rankings of the species in (a);

c) the source of the information obtained regarding the species in (a);

d) an analysis of the probability that the species is present in the Project area based on the habitat types present for the species in (a);

e) identification of the general locations where the species in (a) may occur;

f) the results of any surveys carried out for the species in (a) including the methodology used and the timing of the surveys;

g) a description of any other surveys to be carried out for any of the species in (a) including the methodology and timing and a commitment to supply the results of any planned surveys to the Board;

h) the mitigation for the effects of the Project for each of the species in (a) or an explanation as to why mitigation for the effects is not required; and,

i) a field guide of the species at risk of which field staff would need to be aware, to be incorporated into the EPP prior to construction.

10. TNPI shall consult with Environment Canada to ensure the Project would be constructed in compliance with the *Species at Risk Act*. TNPI shall file with the Board, at least 30 days prior to clearing or construction activities, or as otherwise directed by the Board, evidence to demonstrate that this consultation has occurred, and the results of this consultation.

11. TNPI shall file with the Board, at least 15 days prior to the commencement of any construction activity, or as otherwise directed by the Board, the résumés of proposed environmental inspectors and environmental specialists for the entire Project area.

12. TNPI shall file with the Board, at least 14 days prior to the commencement of any construction activity, or as otherwise directed by the Board, a detailed construction schedule(s) identifying major construction activities and shall notify the Board of any modifications to the schedule(s) as they occur.

13. TNPI shall file with the Board an updated version of the following manual and programs within the time specified, or as otherwise directed by the Board:

    a) construction safety manual, 14 days prior to construction;

    b) field joining program, 14 days prior to joining; and

    c) field pressure testing program, 14 days prior to pressure testing.

**During Construction**

14. TNPI shall maintain at each construction site, a copy of the welding procedures and non-destructive testing procedures used on the project, together with all supporting documentation.

15. TNPI shall maintain at its construction office(s), copies of any permits, approvals or authorizations for the applied-for facilities issued by federal, provincial and other permitting agencies.

16. TNPI shall file construction progress reports with the Board on a monthly basis in a form satisfactory to the Board. The report shall include information on the activities carried out during the reporting period, any environmental and safety issues and non-compliances, and the measures undertaken for the resolution of each issue and non-compliance.

17. TNPI shall file with the Board for approval, prior to reactivation of the uncoated pipeline underneath the Raisin River, the following information in relation to the hydrostatic test:

    a) notification to the Board seven days prior to conducting a hydrostatic test, or as otherwise directed by the Board, indicating the hydrotest schedule and the test medium to be used;

b) confirmation of a successful hydrostatic test within seven days of completion or as otherwise directed by the Board. The confirmation shall include a summary of hourly pressure and temperature readings over the test period, the date of the test, and reconciliation of any significant pressure deviations;

c) notification to the Board within 24 hours of a leak on the pipeline section. The notification shall include the amount of the test medium released, the amount recovered, the presence of any contamination and any mitigative actions being implemented; and

d) repair measures TNPI would implement before retesting the line, in the event of a leak. This information shall be filed at least 7 days prior to conducting another test, or as otherwise directed by the Board.

18. TNPI shall file with the Board 30 days after removing all the vintage full encirclement sleeves from the mainline sections where the operating pressure will increase, or as otherwise directed by the Board, a detailed summary including the results of the test TNPI performed to determine the condition of the existing long-seam. The test shall be done using a statistical sample of 15 percent and shall be conducted by a qualified specialist using an appropriate technology to identify potential defects associated with the long-seam. TNPI shall also include an engineering analysis for any long-seam defects found during that process and the mitigative measures to be implemented on the adjacent sections of the Montréal to Toronto portion of the system.

19. TNPI shall file with the Board 14 days prior to installing cathodic protection in wetland areas, or as otherwise directed by the Board, a detailed description of the specific measures TNPI would implement to ensure cathodic protection is adequately maintained under the concrete coating or weights in wetland areas.

20. TNPI shall file 30 days after completion of the re-examination of its historical in-line inspection (ILI) tool run data for the Montréal to Toronto portion of the system, or as otherwise directed by the Board, a detailed summary of the results obtained from the re-examination, including the final summary report from the ILI vendors, and the mitigative measures to be implemented by TNPI. This summary shall be in a form satisfactory to the Board.

**During Operation**

21. Within 30 days of the date that the approved facilities are placed in service or of the date that the last order was issued for leave to open, TNPI shall file with the Board confirmation, by an officer of the company, that the approved facilities were completed and constructed in compliance with all applicable conditions in this certificate. If compliance with any of the applicable conditions cannot be confirmed, the officer of the company shall file with the Board details as to why compliance cannot be confirmed.

22. TNPI shall file with the Board, within 60 days of completion of construction of the replacement pipe sections, or as otherwise directed by the Board, a report identifying whether any contamination was encountered, the locations where any contamination was

encountered, the results of phase II assessments, the planned remediation, and a summary of any consultation carried out with provincial regulators and the land owners regarding the planned remediation.

23. TNPI shall file with the Board and Environment Canada a post-construction environmental report within six months of the date the approved facilities are placed in service. TNPI shall also file a post-construction environmental report by 31 December following each of the first and third complete growing seasons after the filing of the initial report. The post-construction environmental reports shall:

    a) provide a description of the status of the Project site in terms of stability, extent of revegetation, and return to pre-construction conditions;

    b) set out the environmental issues that have arisen up to the date on which the report is filed, indicate the issues resolved and those unresolved, and the measures the company intends to take in respect of the unresolved issues;

    c) identify and discuss any species at risk encountered in the Project area during construction or post-construction including any mitigation implemented and an evaluation of the success of that mitigation; and

    d) provide an assessment of the effectiveness of the reclamation measures undertaken on the right of way based on a comparison with the land use and condition of the lands adjacent to the right of way.

24. Prior to abandonment of the segments of 273.1 mm (10 inch) diameter pipeline, TNPI shall file confirmation with the Board that all detected contamination related to the pipeline being abandoned has been cleaned up to meet federal and provincial regulatory criteria for the present land use.

25. TNPI shall file with the Board for approval, at least 60 days prior to abandonment of the pipeline at Hoople Bay, or as otherwise directed by the Board, evidence to demonstrate that:

    a) TNPI has advised the landowners of the right of way to be abandoned that:

        i) when the right of way is abandoned the Board will no longer have jurisdiction; and

        ii) if there is a dispute with TNPI, seeking the Board's assistance or intervention will no longer be an available recourse; and

    b) the landowner has agreed to the method for abandonment of the pipeline across their land and any necessary remediation.

26. TNPI shall file at least 60 days prior to abandonment of the easement at Hoople Bay, or as otherwise directed by the Board, confirmation by an officer of the company to demonstrate to the satisfaction of the Board that TNPI has completed each condition

which relates to the abandonment of the right of way (with the exception of condition 27) and pipeline on that right of way.

27. TNPI shall file with the Board a certified copy of any resolution of the Board of Directors of TNPI which declares that the abandoned facilities constitute property which is surplus to the requirements of TNPI.

**Expiration of Certificate**

28. Unless the Board otherwise directs prior to 31 December 2004, this certificate shall expire on 31 December 2004 unless the construction and installation with respect to the applied-for facilities has commenced by that date.